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SENATE BILL 2635 By  
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HOUSE BILL 2460  
By Odom

AN ACT to amend Tennessee Code Annotated, Title 62, Chapter 21, relative to pest control operators.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 62-21-102(14), is amended by adding the following language and punctuation to the end thereto:  
and pesticide shall include subterranean termite treatments;

SECTION 2. Tennessee Code Annotated, Title 62, Chapter 21, is amended by designating the existing language as Part 1, and by adding Sections 3 through 9 of this act as a new part thereto.

SECTION 3. No person shall tender a wood inspection report for any residential real property for a fee unless such person has a license from the board.

SECTION 4. The board may suspend or revoke a license or deny the issuance or renewal of a license if a charter holder, licensee or certificate holder tenders a wood infestation report in connection with the transfer of residential real property or the transfer of an interest in residential real property knowing that such wood infestation report is inaccurate or false as of

the date of the tender of the report or that an inspection was not performed before preparation of the wood infestation report.

SECTION 5. No person shall commence work or make a written or oral statement relating to the presence or absence of wood-destroying pests or organisms in a structure until an inspection is made. No licensee shall issue any guarantee for subterranean termites relating to a spot treatment of a structure for sale or subject to refinancing unless the licensee has first treated the entire structure. In the case of a privately owned dwelling with walls in common of another privately owned dwelling, the licensee may issue the guarantee after treating the single privately owned dwelling in its entirety except for adjoining walls which are inaccessible due to refusal of adjoining occupants to allow access to the licensee.

SECTION 6. (a) Wood infestation reports are evidence of the existence or absence of wood-destroying pests or organisms and damage from wood-destroying pests or organisms on the date the inspection was made. A licensee shall be responsible for accuracy of the inspection and report the presence or absence of infestation on the date of inspection.

(b) Wood infestation reports shall list the name and address of the owner, address of the property, a plat or diagram showing the location of termite or other structural pest infestations, if present, location of damaged areas, and an outline of any recommended work to be carried out.

(c) A wood infestation report shall warrant that no damage from wood-destroying pests or organisms is present that a person of reasonable competence and diligence would discover.

(d) A licensee who issues a wood infestation report without actually visiting the site shall be liable for treble damages for all wood infestation damages present at the date the site should have been inspected.

SECTION 7. (a) At least thirty (30) days before filing suit against a licensee for money damages resulting from termites, an owner, lender or trustee shall give written notice to the licensee at the licensee's last known address, specifying in reasonable detail the facts that are the subject of the complaint. Within ten (10) days after receipt of the notice, the licensee may

request an opportunity to inspect the premises and to treat or repair at the expense of the licensee any area damaged by termites. If the owner agrees to permit the licensee to treat or repair the premises, such treatment or repair shall be made within forty-five (45) days of the agreement, unless completion is delayed by the owner. Failure to provide written notice or refusal to allow a licensee to inspect the premises for termite damage and provide treatment or repair shall create a rebuttable presumption that damages to the premises could have been mitigated.

(b) The notice prescribed by subsection (a) shall not be required if an owner must file suit at an earlier date to prevent the expiration of the statute of limitations or if the complaint is asserted as a counterclaim.

SECTION 8. When a pest control company that conducts inspections or services pertaining to wood destroying pests or organisms is sold, any contracts for inspection or services pertaining to wood destroying pests or organisms shall be enforceable against the person or entity purchasing such pest control company.

SECTION 9. The board shall have the authority to promulgate rules and regulations for any violation of this part.

SECTION 10. This act shall take effect July 1, 2000, the public welfare requiring it.